

EFFECTING LEGAL ARRANGEMENTS AND EXECUTING DOCUMENTS BY ELECTRONIC MEANS - GUERNSEY

USUAL EXECUTION FORMALITIES		ELECTRONIC MEANS
AFFIDAVITS		
For Court Proceedings	Applications need to be executed by the lead advocate on the matter. Affidavits must be witnessed in accordance with The Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 and The Affidavits etc. (Execution before an Advocate) Rules 1999 and signed by the deponent.	Currently there is no guidance on this, so the assumption is a wet signature is still required on court applications, however the documents can all be submitted electronically. Affidavits need to be witnessed in person in accordance with The Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 and The Affidavits etc. (Execution before an Advocate) Rules 1999 – no current provision to allow otherwise see The Electronic Transactions (Exemptions) Order, 2001 However during Lockdown the courts accepted unwitnessed affidavits where the local law firm was able to promise that a witnessed one will be made available. They have carried out some court matters on this basis, but have withheld any act of court until the final form documents have been filed. Now that we are back to pre Covid working practices we would imagine that there would have to be extenuating circumstances to continue with this cause of action.
AGREEMENTS AND CONTRACTS		
Individual	Certain documents/agreements may require a witness	Allowed
Company	In accordance with s116 of the Companies (Guernsey) Law, 2008 or in accordance with its articles	To be prudent, it is recommended that the director be specifically authorised to execute electronically. Be sure to check that there is no impediment to signing documents electronically in the articles.
DEEDS- THERE IS NO CONCEPT OF DEED IN GUERNSEY		
FILINGS AND RETURNS		
GFSC	Provided you are registered with the GFSC's online portals you can make online submissions and returns.	The GFSC issued two FAQs on the provision of " wet" signatures on applications during 2020. Basically, where a printer but no scanner is available, the paperwork should be printed, the signature box signed and the individual take a picture of the document and email the image to the GFSC. Where no printer is available, the individual should copy out

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		the signature box statement on a blank piece of paper, sign and date the statement, then photograph it and email it to the GFSC together with a pdf copy of the unsigned final version of the document.
Companies Registrar	Everything can be uploaded on the online portal http://www.guernseyregistry.com/onlineservicesportal	
CONVEYANCAND REGISTERED DOCUMENTS		
All	Attendance at the contract court and witness before the Lieutenant Bailiff and two Jurats is required on all conveyances. In accordance with The Electronic Transactions (Exemptions) Order, 2001	Over Lockdown, essential work was dealt by the contract court and registrations were carried out by video conference. Now that the Courts are open for business, these practices have reverted to normal working practices. However in relation to registrations, the court has noted that it is planning to install Wi Fi in the Strongroom, which once achieved will allow them to offer a video conference option if a Firms representative is unable to attend in person at the requisite time. This is not in place as yet..
MEMORANDUM AND ARTICLES OF INCOPORATION		
All	Submitted to the Companies' Registrar online as a PDF	
NOTARIAL ACTS		
All	Generally all notarial acts must be done in the presence of a notary.	There are limited exemptions to this rule which are very fact specific. Please contact the author for specific advice.
POWERS OF ATTORNEY		
Individual (execution)	Currently this falls within the Exemptions Order and as such should be done in wet ink before a specified witness in accordance with the Powers of Attorney and Affidavits (Bailiwick of Guernsey) Law, 1995 Note we are currently awaiting the enduring powers of attorney legislation. These cannot be done at the moment in Guernsey for Guernsey residents and the new legislation may now address these issues in light of Covid-19 restrictions.	There does not appear to be any guidance on these issues in Guernsey.
Company (no seal)	Signed by a director or in accordance with the articles of incorporation of the company (s118 of the Companies (Guernsey) Law, 2008)	We would advise that the minutes authorise the director/authorised signatory to execute electronically. Be sure to check that there is no impediment to signing documents electronically in the articles
Company (with seal)	A company does not need to have a seal but if it does it must execute as above	May be done electronically in accordance with ETL

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PROXY FORMS, APPOINTMENTS AND AUTHORISATIONS		
Director	Check constitutional documents for any specific requirements.	We would advise that the minutes authorise the director/authorised signatory to execute electronically. Be sure to check that there is no impediment to signing documents electronically in the articles
Shareholder	Check constitutional documents for any specific requirements.	Be sure to check that there is no impediment to signing documents electronically in the articles
SHARE TRANSFER FORMS		
All	Check constitutional documents for any specific requirements.	
WILLS AND TESTAMENTARY INSTRUMENTS		
All	<p>Wills need to be executed by testator and two witnesses (who must be over the age of 14, and not be the spouse or descendant of the testator, must not be allowed to benefit under the will)</p> <p>S21 Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law , 2006</p> <p>Holographic Wills are allowed (i.e. in the handwriting of the testator)</p>	<p>No current Guernsey guidance. Under current legislation it is not possible to witness the execution remotely i.e. via video conference.</p> <p>There is no local case law on this point but nothing to prevent the witnessing of a will through a window.</p>